

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 935**

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**Introduced by Assembly Member Blumenfield**

February 18, 2011

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~~An act to amend Section 27360 of the Government Code, relating to local government. An act to add Section 27389 to the Government Code, relating to foreclosures, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 935, as amended, Blumenfield. ~~County recorders: fees.~~  
*Foreclosures: foreclosure mitigation charges.*

*Existing law sets forth the criteria for procedures for the foreclosure of property, including the filing of various notices with the county recorder, and generally sets forth the duties of the county recorder in this regard.*

*This bill would prohibit a notice of trustee's sale from being accepted for filing with the county recorder until the mortgage servicer pays a foreclosure mitigation charge of \$20,000. It would require the county recorder to keep the moneys in trust until a notice of rescission is filed, at which time the moneys would be returned to the mortgage servicer, or until a trustee deed of sale is filed, at which time the moneys would be transmitted to the Treasurer for deposit in the Foreclosure Mitigation Fund, which would be created by the bill; the interest earned on the moneys would be retained by the county recorder in either case. The fund would be continuously appropriated for distribution by the Treasurer to local agencies for specified purposes.*

*By imposing a new duty on county recorders in collecting this fee, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~*This bill would make a technical, nonsubstantive change to these provisions.*~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 27389 is added to the Government Code,*  
2     *to read:*

3     27389. (a) *Notwithstanding any other provision of law, no*  
4     *notice of trustee's sale shall be accepted for filing with the county*  
5     *recorder until the mortgage servicer, as defined in subdivision (q)*  
6     *of Section 50003 of the Financial Code, pays a foreclosure*  
7     *mitigation charge of twenty thousand dollars (\$20,000). The cost*  
8     *of this charge may not be passed on to borrowers.*

9     (b) (1) *The county recorder shall hold the moneys collected*  
10    *pursuant to subdivision (a) in trust until either of the following*  
11    *occurs:*

12    (A) *If a notice of rescission is filed with respect to the property,*  
13    *the county recorder shall return the moneys to the mortgage*  
14    *servicer, except as provided in paragraph (2).*

15    (B) *If a trustee deed upon sale is filed with respect to the*  
16    *property, and except as provided in paragraph (2) the county*  
17    *recorder shall transmit the moneys to the Treasurer for deposit in*  
18    *the Foreclosure Mitigation Fund, which is hereby established as*  
19    *a special fund in the State Treasury.*

20    (2) *The county recorder may retain any interest earned while*  
21    *the moneys were held in trust pursuant to this subdivision, to cover*  
22    *administrative costs.*

23    (c) (1) *Moneys in the Foreclosure Mitigation Fund are hereby*  
24    *continuously appropriated for distribution by the Treasurer to*  
25    *local agencies, in the same amount as the applicable counties'*  
26    *respective deposits.*

1     (2) *Moneys distributed to local agencies pursuant to this*  
2     *subdivision shall be used as follows:*

3     (A) *Twenty percent for K-12 and community college purposes.*

4     (B) *Twenty percent for public safety purposes, including, but*  
5     *not limited to, local police, county sheriffs, and local fire*  
6     *protection.*

7     (C) *Twenty percent for redevelopment activities within the*  
8     *jurisdiction of the local agency, including, but not limited to, the*  
9     *construction of affordable housing.*

10    (D) *Twenty percent for mitigating the effects of foreclosures on*  
11    *the community, including, but not limited to, reimbursement of the*  
12    *county recorder's costs in collecting the charge imposed pursuant*  
13    *to subdivision (a).*

14    (E) *Twenty percent for loans for small businesses within the*  
15    *jurisdiction of the local agency.*

16    SEC. 2. *No reimbursement is required by this act pursuant to*  
17    *Section 6 of Article XIII B of the California Constitution because*  
18    *a local agency or school district has the authority to levy service*  
19    *charges, fees, or assessments sufficient to pay for the program or*  
20    *level of service mandated by this act, within the meaning of Section*  
21    *17556 of the Government Code.*

22    ~~SECTION 1. Section 27360 of the Government Code is~~  
23    ~~amended to read:~~

24    ~~27360. The county recorder shall charge and collect the fees~~  
25    ~~fixed in this article for services he or she performs.~~